



Reprinted
January 31, 2012

SENATE BILL No. 398

DIGEST OF SB 398 (Updated January 30, 2012 6:29 pm - DI 109)

Citations Affected: IC 15-16; IC 15-17; IC 15-18; IC 15-19; IC 35-51.

Synopsis: State chemist issues. Provides civil penalty authority to the state chemist under the agricultural ammonia law and subpoena authority to the state chemist under the agricultural ammonia law and commercial fertilizers laws. Provides that the state chemist may impose a civil penalty only according to a schedule recommended by the fertilizer advisory board. Amends the pesticide laws and the pesticide use and application laws as follows: (1) Expands the definition of "produce". (2) Makes changes to the qualifications of certain members on the pesticide review board. (3) Makes changes to the duties and rule making authority of the pesticide review board. (4) Exempts employees of nonprofit organizations from the annual pesticide applicator license fee. (5) Repeals registration requirements and fees for pesticide consultants. (6) Amends provisions of state pesticide law to apply to all
(Continued next page)

Effective: July 1, 2012.

**Banks, Yoder, Tomes, Waterman,
Young R, Steele, Walker**

January 9, 2012, read first time and referred to Committee on Agriculture and Natural Resources.
January 24, 2012, amended, reported favorably — Do Pass.
January 30, 2012, read second time, amended, ordered engrossed.

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Digest Continued

pesticide products, including both chemicals and devices. (Current law applies only to chemicals.) (7) Makes changes to comply with federal pesticide laws. Amends the commercial feed laws as follows: (1) Adds and amends numerous definitions. (2) Adds a late fee for distributing feed before applying for a license. (3) Allows the state chemist to revoke, suspend, or place conditions on a commercial feed license that is not in compliance. (4) Makes changes to required labeling information. (5) Provides conditions that make commercial feed adulterated. (6) Adds authority to adopt rules concerning foods for specialty pets. (7) Increases the penalty for certain violations from a Class C infraction to a Class A infraction. Allows milk producers to sell raw milk to consumers under certain conditions. Makes technical changes.

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January 31, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 398

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 15-16-1-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 3.5. As used in this chapter, "board" refers to the**
4 **Indiana fertilizer advisory board established by IC 15-16-2-25.**
5 SECTION 2. IC 15-16-1-14, AS AMENDED BY P.L.81-2009,
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2012]: Sec. 14. **(a) If a person violates this chapter or a rule**
8 **adopted under this chapter, the state chemist may:**
9 **(1) warn, issue a citation to, or impose a civil penalty on the**
10 **person; or**
11 **(2) deny, suspend, revoke, or amend the person's license,**
12 **certificate, registration, permit, or application under this**
13 **chapter.**
14 **(b) The state chemist may adopt by rule, under IC 4-22-2, a**
15 **schedule of civil penalties that may be imposed under subsection**

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1 **(a). The state chemist may impose a civil penalty only according to**
 2 **a schedule of civil penalties recommended by the board.**

3 (a) (c) A person who knowingly or intentionally violates this chapter
 4 commits a Class C misdemeanor.

5 (b) The prosecuting attorney of any judicial circuit in which a
 6 violation has occurred and to whom the state chemist has reported a
 7 violation shall institute the appropriate proceedings and prosecute the
 8 proceedings in a court.

9 (c) Before the state chemist reports a violation for prosecution as
 10 described in subsection (b); the state chemist shall give the person
 11 charged with a violation an opportunity to respond to the charges. The
 12 state chemist need not report for prosecution minor violations of this
 13 chapter if the state chemist believes that the public interest is best
 14 served by another action.

15 SECTION 3. IC 15-16-1-16 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2012]: **Sec. 16. The state chemist may request a court to issue**
 18 **subpoenas to compel:**

19 **(1) the attendance of witnesses; or**

20 **(2) the production of books, documents, and records;**

21 **as part of an authorized investigation or a hearing in Indiana**
 22 **affecting an application or the authority or privilege granted by a**
 23 **license, certificate, registration, or permit issued under this**
 24 **chapter.**

25 SECTION 4. IC 15-16-2-38, AS AMENDED BY P.L.81-2009,
 26 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2012]: Sec. 38. (a) The state chemist shall:

28 (1) sample, inspect, make analysis of, and test commercial
 29 fertilizers distributed within Indiana; and

30 (2) inspect the storage of bulk fertilizers in Indiana at a time and
 31 place and to such an extent as necessary to determine whether the
 32 bulk fertilizers and their storage are in compliance with this
 33 chapter.

34 (b) The state chemist may enter upon any public or private premises
 35 during regular business hours in order to have access to:

36 (1) fertilizer materials; and

37 (2) plans and records relating to the transportation, storage, sale,
 38 and use of fertilizer materials;

39 subject to this chapter and the rules adopted under this chapter.

40 (c) The state chemist shall adopt methods of sampling and analysis
 41 for commercial fertilizers from sources that may include AOAC
 42 International. In cases of dispute, AOAC International's methods

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1 prevail if AOAC International's methods are available.

2 (d) The state chemist shall determine for administrative purposes
3 whether a commercial fertilizer is deficient in plant foods using only
4 the official sample obtained and analyzed as provided in subsection (c).

5 (e) **The state chemist may request a court to issue subpoenas to**
6 **compel:**

7 **(1) the attendance of witnesses; or**

8 **(2) the production of books, documents, and records;**

9 **as part of an authorized investigation or a hearing in Indiana**
10 **affecting an application or the authority or privilege granted by a**
11 **license, certificate, registration, or permit issued under this**
12 **chapter.**

13 SECTION 5. IC 15-16-4-35, AS ADDED BY P.L.2-2008,
14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2012]: Sec. 35. As used in this chapter, "produce" means:

16 (1) to:

17 (1) (A) manufacture;

18 (2) (B) prepare;

19 (3) (C) compound;

20 (4) (D) process; or

21 (E) formulate; or

22 (5) (F) change;

23 ~~the container of a pesticide product or an active ingredient~~ **that is**
24 **used in producing a pesticide product; or**

25 (2) to:

26 (A) package;

27 (B) repackage;

28 (C) label;

29 (D) relabel; or

30 (E) otherwise change;

31 **the container of a pesticide product.**

32 The term does not include the dilution of formulated pesticides by an
33 individual for the individual's use done according to the directions on
34 the pesticide label.

35 SECTION 6. IC 15-16-4-42, AS ADDED BY P.L.120-2008,
36 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2012]: Sec. 42. (a) The Indiana pesticide review board is
38 established. The board consists of the following members:

39 (1) One (1) representative of the state department of health.

40 (2) One (1) representative of the department of natural resources.

41 (3) One (1) representative of the department of environmental
42 management.



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- 1 (4) One (1) representative of the Purdue University office of
 2 agricultural research programs.
- 3 (5) One (1) representative of the Purdue University cooperative
 4 extension service.
- 5 (6) Two (2) ecologists: ~~with earned doctorate degrees:~~
 6 (A) one (1) a terrestrial ecologist; and
 7 (B) one (1) an aquatic ecologist.
 8 Not more than one (1) ecologist may be a plant ecologist.
- 9 (7) One (1) public representative.
- 10 (8) One (1) representative of the pesticide **producing or**
 11 **manufacturing** industry.
- 12 (9) Two (2) representatives of producers of agricultural crops or
 13 products on which pesticides are applied or that may be affected
 14 by the application of pesticides:
 15 (A) one (1) of whom represents producers of agronomic crops;
 16 and
 17 (B) one (1) of whom represents producers of ~~nonagronomic~~
 18 **specialty** crops.
- 19 (10) One (1) public representative from ~~a conservation~~
 20 ~~organizations:~~ **organization.**
- 21 (11) Three (3) qualified scientists, one (1) each in the fields of
 22 entomology, plant pathology, and weed science. One (1) scientist
 23 must be the representative of either the Purdue University office
 24 of agricultural research programs or the Purdue University
 25 cooperative extension service.
- 26 (12) Three (3) certified and licensed commercial applicators of
 27 pesticides who must represent three (3) different certificate or
 28 license categories established under IC 15-16-5-45.
- 29 (13) The state chemist, who is an ex officio member and shall
 30 serve as a nonvoting member.
- 31 (14) The pesticide administrator for the office of the state
 32 chemist, who shall serve as a nonvoting member.
- 33 (15) The pesticide training coordinator, who shall serve as a
 34 nonvoting member.
- 35 (b) The voting members shall be appointed by the governor for
 36 terms of four (4) years and, subject to subsection (d), continue until the
 37 member's successor is approved and qualified. Appointments shall be
 38 made so that not more than five (5) terms expire annually.
- 39 (c) Voting members may be appointed for successive terms at the
 40 discretion of the governor.
- 41 (d) The governor may remove a voting member of the board prior
 42 to the expiration of the member's term for cause.



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1 SECTION 7. IC 15-16-4-48, AS ADDED BY P.L.2-2008,
 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 48. The board ~~shall~~ **may**:

- 4 (1) collect;
 5 (2) analyze; and
 6 (3) interpret;

7 information on matters relating to the **registration and** use of
 8 pesticides.

9 SECTION 8. IC 15-16-4-50, AS ADDED BY P.L.2-2008,
 10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2012]: Sec. 50. (a) The board may adopt rules under IC 4-22-2
 12 to do the following:

- 13 (1) Establish a list of restricted use pesticides and pesticides for
 14 use by prescription only for all of Indiana or designated areas
 15 within Indiana, if the board finds that the characteristics of a
 16 pesticide require that rules restricting the:

- 17 (A) sale;
 18 (B) distribution; or
 19 (C) use;

20 of the pesticide by any person are necessary to prevent undue
 21 hazards to persons, animals, wildlife, lands, or waters, other than
 22 the pests that they are intended to prevent, destroy, control, or
 23 mitigate.

- 24 (2) Provide for the **safe**:

- 25 (A) ~~safe~~ handling;
 26 (B) transportation;
 27 (C) storage;
 28 (D) display;
 29 (E) distribution; ~~and~~
 30 (F) disposal; ~~and~~
 31 **(G) production;**

32 of ~~pesticides~~ **pesticide products** and pesticide containers.

- 33 (3) Restrict or prohibit the use of certain types of containers or
 34 packages for specific pesticides. The restrictions may apply to the:

- 35 (A) type of construction;
 36 (B) strength; or
 37 (C) size;

38 to alleviate danger of spillage, breakage, or misuse.

39 (b) The board may adopt by reference the restricted use
 40 classification of a pesticide that is maintained by the United States
 41 Environmental Protection Agency.

- 42 (c) The board may **adopt rules to** do the following:

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- 1 (1) ~~Include in a rule adopted under subsection (a)(1)~~ **Determine**
 2 the time and conditions of the:
 3 (A) sale;
 4 (B) distribution; or
 5 (C) use;
 6 of pesticides designated as restricted use pesticides and pesticides
 7 for use by prescription only. **pesticide products.**
 8 (2) ~~Require in a rule under subsection (a)(1)~~ that any or all
 9 **materials pesticide products** be purchased, possessed, or used
 10 only under:
 11 (A) permit;
 12 (B) certificate;
 13 (C) license; or
 14 (D) registration;
 15 of the state chemist or under certain conditions or in certain
 16 quantities or concentrations.
 17 ~~(d) The state chemist may~~ **(3)** Require all persons issued:
 18 ~~(1) (A) permits;~~
 19 ~~(2) (B) certificates;~~
 20 ~~(3) (C) licenses; or~~
 21 ~~(4) (D) registrations;~~
 22 under ~~subsection (e)~~ **this subsection** to maintain records as to the
 23 use of the ~~restricted use pesticides and pesticides for use by~~
 24 ~~prescription only.~~ **pesticide products.**
 25 SECTION 9. IC 15-16-4-55, AS ADDED BY P.L.120-2008,
 26 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2012]: Sec. 55. The state chemist or the state chemist's agent
 28 may do the following:
 29 (1) Enter any public or private premises, including any vehicle of
 30 transport during regular business hours:
 31 (A) to:
 32 (i) have access to; and
 33 (ii) obtain samples of;
 34 pesticide products; and
 35 (B) to:
 36 (i) examine; and
 37 (ii) copy;
 38 records relating to the production, use, transportation, and sale
 39 of pesticide products, subject to this chapter, ~~and~~ the rules
 40 adopted under this chapter, **and the Federal Insecticide,**
 41 **Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).**
 42 (2) Enter at a reasonable time in or upon any:

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- 1 (A) private; or
 2 (B) public;
 3 property for the purpose of inspection and investigating
 4 conditions possibly resulting from the use or misuse of a pesticide
 5 product.
 6 SECTION 10. IC 15-16-4-57, AS ADDED BY P.L.120-2008,
 7 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2012]: Sec. 57. Except as provided in section 58 of this
 9 chapter, a person may not produce, distribute, display, sell, or offer for
 10 sale within Indiana or deliver for transportation or transport in
 11 intrastate commerce or between points within Indiana through any
 12 point outside Indiana any of the following:
- 13 (1) Any pesticide product that has not been registered under
 14 section 61 of this chapter.
 - 15 (2) Any pesticide product if any of the claims made for it or any
 16 of the directions for its use differ in substance from the
 17 representations made in connection with its registration.
 - 18 (3) A pesticide product if the composition of the product differs
 19 from the composition as represented in connection with its
 20 registration. However, at the discretion of the state chemist, a
 21 change in the labeling or formula of a pesticide may be made
 22 within a registration period without requiring reregistration of the
 23 product.
 - 24 (4) Any pesticide **product** (except a bulk pesticide or a pesticide
 25 in a container designed and constructed to accommodate the
 26 return and refill of the container) unless it is in the registrant's or
 27 the manufacturer's unbroken immediate container, and there is
 28 affixed to that container, and to any outside container or wrapper
 29 of the retail package through which the required information on
 30 the immediate container cannot be clearly read, a label bearing:
 - 31 (A) the name and address of the manufacturer, registrant, or
 32 person for whom manufactured;
 - 33 (B) the name, brand, or trademark under which the pesticide
 34 product is sold; and
 - 35 (C) the net weight or measure of the content, subject, however,
 36 to reasonable variations as the state chemist may permit.
 - 37 (5) Any pesticide product that is adulterated or misbranded.
 - 38 (6) Any pesticide **product** in containers violating rules adopted
 39 under section 50(a)(3) of this chapter. Pesticides found in
 40 containers that are unsafe due to damage may be seized and
 41 impounded.
 - 42 (7) A highly volatile herbicide except on written permission by

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1 the state chemist.

2 (8) Any bulk pesticide unless it is accompanied in all transfers of
3 custody or ownership by or held in storage vessels to which is
4 affixed a label bearing the information specified in subdivision
5 (4).

6 **(9) Any pesticide that violates the Federal Insecticide,
7 Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or
8 regulations adopted under the Act.**

9 SECTION 11. IC 15-16-4-59, AS ADDED BY P.L.2-2008,
10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2012]: Sec. 59. A person may not:

12 (1) detach, alter, deface, or destroy, in whole or in part, any label
13 or labeling provided for in this chapter or rules adopted under this
14 chapter;

15 (2) add any substance to, or take any substance from, a pesticide
16 in a manner that may defeat the purpose of this chapter;

17 (3) use for the person's own advantage or reveal, other than to:

18 (A) the state chemist;

19 (B) proper officials;

20 (C) employees of the state;

21 (D) the courts of this state in response to a subpoena;

22 (E) physicians; or

23 (F) pharmacists and other qualified persons for use in
24 emergencies in the preparation of antidotes;

25 any information relative to formulas of products acquired by
26 authority of section 61 or 64 of this chapter;

27 (4) use or cause to be used any pesticide contrary to section 50 of
28 this chapter; ~~or~~

29 (5) use a highly volatile herbicide except on written permission by
30 the state chemist; ~~or~~

31 **(6) neglect or, after notice, refuse to comply with this chapter,
32 the rules adopted under this chapter, or a lawful order of the
33 state chemist or board.**

34 SECTION 12. IC 15-16-4-62, AS ADDED BY P.L.2-2008,
35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2012]: Sec. 62. (a) Each registrant shall pay an annual,
37 nonrefundable fee of one hundred seventy dollars (\$170) for each
38 application for each pesticide product ~~registered~~: **submitted for
39 registration.**

40 (b) Each registration expires January 1 of each year.

41 (c) All fees collected by the state chemist under this chapter shall be
42 paid to the treasurer of Purdue University, who shall deposit the fees in

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1 a special restricted account designated by the treasurer of the board of
2 trustees of Purdue University.

3 (d) From the account described in subsection (c), the treasurer shall
4 pay all expenses incurred in administering this chapter, including
5 expenses for the following:

6 (1) The employment of:

7 (A) inspectors;

8 (B) investigators;

9 (C) researchers;

10 (D) analysts;

11 (E) administrators; and

12 (F) clerical and service staff.

13 (2) Expenses in procuring samples and printing results of
14 inspections.

15 (3) Purchasing:

16 (A) supplies;

17 (B) equipment; and

18 (C) services.

19 (4) Necessary remodeling.

20 (5) Other expenses of the office of the state chemist.

21 (6) The transfer of ten dollars (\$10) from each fee paid under
22 subsection (a) on an annual basis to the office of Purdue pesticide
23 programs to provide education about the safe and effective use of
24 pesticides.

25 The treasurer is not required to use any other funds, except those
26 collected as registration fees, to pay any expenses incurred in the
27 administration of this chapter. The dean of agriculture shall make an
28 annual financial report to the governor showing total receipts and
29 expenditures of all fees received under this chapter.

30 (e) A registrant who registers or pays an annual fee after December
31 31 of any year shall pay a late fee of one hundred seventy dollars
32 (\$170) as well as the annual fee.

33 (f) Excess funds from the collection of fees under this chapter are
34 subject to IC 15-16-2-36.

35 SECTION 13. IC 15-16-4-67, AS ADDED BY P.L.2-2008,
36 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2012]: Sec. 67. A person may not **produce**, handle, transport,
38 store, display, or distribute pesticide products in a manner as to
39 endanger:

40 (1) humans;

41 (2) the environment;

42 (3) food;

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- 1 (4) feed; or
- 2 (5) any other products that may be:
- 3 (A) transported;
- 4 (B) stored;
- 5 (C) displayed; or
- 6 (D) distributed;
- 7 with pesticide products.

8 SECTION 14. IC 15-16-5-42, AS ADDED BY P.L.120-2008,
 9 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2012]: Sec. 42. The state chemist may waive all or part of the
 11 requirements provided for in sections 45, 46, 48, 49, 50, 51, 52, ~~53~~, 54,
 12 56, and 57 of this chapter on a reciprocal basis with any other state
 13 agency or federal agency that has substantially the same standards.

14 SECTION 15. IC 15-16-5-52, AS ADDED BY P.L.120-2008,
 15 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2012]: Sec. 52. (a) A person applying for a license described
 17 under section 49, 50, or 51 of this chapter must:

- 18 (1) submit an application to the state chemist on a form provided
- 19 by the state chemist;
- 20 (2) pass the appropriate examination provided under section 45 of
- 21 this chapter;
- 22 (3) except for a person **who is:**
- 23 (A) applying for a licensed public applicator's license; **or**
- 24 (B) **an employee of a nonprofit organization;**
- 25 submit a fee of forty-five dollars (\$45) to the state chemist; and
- 26 (4) if the person will engage in the aerial application of pesticides,
- 27 submit proof to the state chemist that the person has satisfied
- 28 aerial application requirements under applicable state and federal
- 29 laws.

30 (b) Subject to section 65 of this chapter, if a person meets the
 31 requirements under subsection (a), the state chemist shall issue the
 32 appropriate license to the person.

33 (c) If the state chemist does not issue a license to a person who
 34 applied for a license described under subsection (a), the state chemist
 35 shall inform the person in writing of the reason the license was not
 36 issued.

- 37 (d) A person who has been issued a license under subsection (b):
- 38 (1) shall notify the state chemist in writing within ten (10) days
- 39 after a change in or termination of the person's employment as a
- 40 licensed applicator for hire, a licensed applicator not for hire, or
- 41 a licensed public applicator; and
- 42 (2) may apply to the state chemist to transfer or amend the

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1 person's license by submitting an updated application form
 2 described under subsection (a)(1).
 3 (e) A license issued under subsection (b):
 4 (1) expires January 1 of each year; and
 5 (2) subject to section 65 of this chapter, may be renewed by the
 6 person holding the license if the person:
 7 (A) submits a renewal application on a form provided by the
 8 state chemist; and
 9 (B) except for a person renewing a licensed public applicator's
 10 license **or an employee of a nonprofit organization**, pays a
 11 forty-five dollar (\$45) renewal fee;
 12 before January 1.

13 SECTION 16. IC 15-16-5-53 IS REPEALED [EFFECTIVE JULY
 14 1, 2012]. ~~Sec. 53: (a) A person may not act as a pesticide consultant~~
 15 ~~unless the person has registered with the state chemist.~~

16 ~~(b) To register with the state chemist as a pesticide consultant, a~~
 17 ~~person must:~~
 18 ~~(1) submit an application on a form approved by the state chemist;~~
 19 ~~and~~
 20 ~~(2) pay an annual fee of forty-five dollars (\$45) to the state~~
 21 ~~chemist.~~

22 SECTION 17. IC 15-16-5-64, AS ADDED BY P.L.120-2008,
 23 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2012]: Sec. 64. (a) A person may not **produce**, transport,
 25 store, **handle**, or dispose of any pesticide **product** or pesticide **product**
 26 containers in a manner that may:

- 27 (1) cause injury to:
 28 (A) humans;
 29 (B) beneficial vegetation;
 30 (C) crops;
 31 (D) livestock;
 32 (E) wildlife; or
 33 (F) beneficial insects; or
 34 (2) pollute any waterway in a way harmful to any wildlife in a
 35 waterway.

36 (b) The board may adopt rules governing the **production**,
 37 **transportation**, storage, **handling**, and disposal of ~~pesticides~~ **pesticide**
 38 **products** or pesticide containers. In determining these standards, the
 39 board shall take into consideration any regulations issued by the United
 40 States Environmental Protection Agency.

41 SECTION 18. IC 15-16-5-65, AS ADDED BY P.L.120-2008,
 42 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 65. Subject to section 66 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

- (1) Made false or fraudulent claims either verbally or through any media misrepresenting the effect of ~~pesticides~~ **pesticide products** or methods to be used.
- (2) Recommended, used, or supervised the use of any registered pesticide **product** in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide **product**.
- (3) Used known ineffective or improper ~~pesticides~~ **pesticide products** or known ineffective amounts of pesticides.
- (4) Operated faulty or unsafe equipment.
- (5) Operated in a careless or negligent manner.
- (6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist or the board.
- (7) Refused or neglected to:
 - (A) keep and maintain the records required by this chapter; or
 - (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection.
- (8) Made false or fraudulent records, invoices, or reports.
- (9) Engaged in or professed to be engaged in the business of:
 - (A) using a pesticide **or any other product regulated under this chapter or by rules adopted under this chapter;** or
 - (B) making a diagnostic inspection to determine infestations of a wood destroying pest;

for hire on the property of another without having a ~~pesticide~~ business license **issued by the state chemist.**
- (10) Used a restricted use pesticide without having an applicator, who is licensed or permitted under this chapter, in direct supervision.
- (11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.

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- 1 (12) Refused or neglected to comply with any limitations or
- 2 restrictions on or in a duly issued license, permit, registration, or
- 3 certification.
- 4 (13) Aided or abetted a person to evade this chapter, conspired
- 5 with a person to evade this chapter, or allowed a license, permit,
- 6 registration, or certification to be used by another person.
- 7 (14) Made false or misleading statements during or after an
- 8 inspection concerning any infestation or infection of pests.
- 9 (15) Impersonated any federal, state, county, or city inspector,
- 10 investigator, or official.
- 11 (16) Knowingly purchased or used a pesticide **product** that was
- 12 not registered under IC 15-16-4.
- 13 (17) Failed to continuously maintain financial responsibility
- 14 required under section 58 of this chapter or to provide proof of
- 15 financial responsibility to the state chemist when requested.
- 16 (18) Intentionally altered a duly issued license, permit,
- 17 registration, or certification.
- 18 (19) Recklessly, knowingly, or intentionally impeded or prevented
- 19 the state chemist or the state chemist's agent from performing a
- 20 duty of the state chemist.
- 21 SECTION 19. IC 15-16-5-69, AS ADDED BY P.L.120-2008,
- 22 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2012]: Sec. 69. (a) The state chemist may enter upon any
- 24 public or private property at reasonable times to do the following:
- 25 (1) Observe the use and application of a pesticide **product**.
- 26 (2) Inspect equipment subject to this chapter.
- 27 (3) Inspect and sample property actually or reported to be exposed
- 28 to ~~pesticides~~: **pesticide products**.
- 29 (4) Inspect storage or disposal areas.
- 30 (5) Inspect or investigate complaints of injury to humans or
- 31 property.
- 32 (6) Sample ~~pesticides~~ **pesticide products** being **produced,**
- 33 **distributed, transported, stored, disposed of, or** used or to be
- 34 used.
- 35 (7) Inspect and obtain copies of pesticide **product production,**
- 36 sale, distribution, purchase, use, storage, and disposal records,
- 37 **including confidential business information. Confidential**
- 38 **business information obtained under this subdivision is**
- 39 **confidential for purposes of IC 5-14-3-4(a).**
- 40 (b) The state chemist may, upon showing a need, apply to any court
- 41 with jurisdiction for a search warrant authorizing access to the
- 42 property. The court may, after receiving the application and finding a

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1 need, issue the search warrant for the purposes requested.

2 (c) A prosecuting attorney to whom a violation of this chapter is
3 reported may institute and prosecute the violation in a court with
4 jurisdiction of that county without delay. The state chemist may apply
5 for and the court may grant a temporary or permanent injunction
6 restraining any person from violating or continuing to violate this
7 chapter or any rule adopted under this chapter notwithstanding the
8 existence of other remedies at law. The injunction may be issued
9 without bond.

10 SECTION 20. IC 15-17-2-58, AS ADDED BY P.L.2-2008,
11 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2012]: Sec. 58. "Milk producer" means a person that does the
13 following:

- 14 (1) Operates a dairy farm.
- 15 (2) Provides, sells, or offers raw milk for sale to a milk plant,
16 receiving station, **consumer**, or transfer station.

17 SECTION 21. IC 15-18-1-21, AS ADDED BY P.L.2-2008,
18 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2012]: Sec. 21. (a) **Except as provided in section 21.5 of this**
20 **chapter**, a person may not offer, display for sale, sell, deliver, or have
21 possession of with intent to sell or deliver milk or milk products for
22 human consumption unless every particle of the final mixture of the
23 milk or milk products used in processing or manufacture has been
24 thoroughly pasteurized by equipment approved by the board.

25 (b) The provisions of this chapter governing pasteurization do not
26 apply to a person selling or offering for sale cheddar cheese that has
27 been made from unpasteurized milk if:

- 28 (1) the cheese was made from unpasteurized milk and has been
29 cured or ripened for at least sixty (60) days at a controlled
30 temperature of at least thirty-five (35) degrees Fahrenheit; or
- 31 (2) the cheese is manufactured solely to be made into processed
32 cheese that is pasteurized during the blending or manufacturing
33 process.

34 Varieties of cheese other than that of the cheddar type made from
35 unpasteurized milk must be ripened for the time and under the
36 conditions prescribed by rule of the board. Cheese made from
37 unpasteurized milk and offered or displayed for sale to the consumer
38 must be labeled by the manufacturer or distributor with the
39 manufacturer's or distributor's name and address or an equivalent
40 identifying number or symbol and with the date of manufacture or a
41 statement to the effect that the cheese has been cured or ripened for at
42 least sixty (60) days.

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1 (c) A pasteurizer of any milk or milk products must be equipped
 2 with accurate indicating thermometers and accurate recording
 3 thermometers and, for vat pasteurization equipment, an accurate
 4 airspace thermometer of a type approved by the board. Each recording
 5 thermometer chart must be dated and numbered and must show the
 6 amount in gallons, the kind of product pasteurized, the accurate
 7 readings of the indicating thermometers and airspace thermometers, the
 8 time the reading was made, and the operator's initials. Each chart may
 9 not be used for more than one (1) day of operations. The records of the
 10 pasteurization of each batch pasteurized must be retained for at least
 11 ninety (90) days.

12 SECTION 22. IC 15-18-1-21.5 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2012]: **Sec. 21.5. (a) Notwithstanding any**
 15 **other law, a milk producer who holds a permit under this chapter**
 16 **may register with the department for the purposes described in**
 17 **subsection (d).**

18 (b) Notwithstanding any other law, a milk producer who does
 19 not have a permit under this chapter may register with the
 20 department for the purposes described in subsection (d) if the milk
 21 producer milks fewer than twenty (20) cows.

22 (c) The department may not specify additional requirements for
 23 registration under this section.

24 (d) Upon request of a milk producer described in subsection (a)
 25 or (b), the department shall register the producer as a person who
 26 may sell raw milk as described in this subsection. A milk producer
 27 (as defined under IC 15-17-2-58) may sell raw milk and raw milk
 28 products to a consumer for human consumption on the milk
 29 producer's dairy farm if all the following apply:

- 30 (1) The milk producer is registered under this subsection.
- 31 (2) For each sale, either the milk producer or the consumer
- 32 provides a sanitary container for the milk that has been
- 33 prepared in a sanitary manner and the container is filled in a
- 34 sanitary manner.
- 35 (3) At the place where the milk is sold, the milk producer
- 36 displays a sign that is easy for a consumer to read and that
- 37 states, "Raw Milk products are sold here. Raw Milk products
- 38 are not pasteurized."
- 39 (4) The raw milk or raw milk product is prominently labeled,
- 40 in at least a one-half (1/2) inch font, "This product contains
- 41 Raw Milk. Consume at your own risk.

42 SECTION 23. IC 15-19-7-1, AS ADDED BY P.L.2-2008,

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1 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2012]: Sec. 1. As used in this chapter, "brand name" means a
3 word, name, symbol, or device or any combination of words, names,
4 symbols, **graphics**, or devices that identifies the commercial feed of a
5 distributor and distinguishes it from that of other distributors.

6 SECTION 24. IC 15-19-7-2, AS ADDED BY P.L.2-2008,
7 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2012]: Sec. 2. As used in this chapter, "commercial feed"
9 means all materials, **or combinations of materials**, that are distributed
10 **or intended for distribution** for use as feed or for mixing in feed,
11 **except as exempted in this section**. The term does not include the
12 following unless **labeled with nutritional claims** or adulterated within
13 the meaning of section 29(1) of this chapter:

14 (1) Unmixed whole seeds.

15 (2) Unmixed, physically altered whole seeds that have not been
16 chemically altered.

17 (3) Commodities, compounds, or substances excluded by rules
18 adopted by the state chemist under IC 4-22-2 in accordance with
19 section 34 of this chapter.

20 SECTION 25. IC 15-19-7-2.5 IS ADDED TO THE INDIANA
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2012]: **Sec. 2.5. As used in this chapter,**
23 **"contract feeder" means a person who:**

24 **(1) is an independent contractor;**

25 **(2) feeds commercial feed to animals under a contract where**
26 **the commercial feed is supplied, furnished, or otherwise**
27 **provided to the person; and**

28 **(3) receives remuneration that is determined wholly or in part**
29 **by feed consumption, mortality, profits, or amount or quality**
30 **of product.**

31 SECTION 26. IC 15-19-7-3, AS ADDED BY P.L.2-2008,
32 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2012]: Sec. 3. As used in this chapter, "~~custom mixed~~
34 **"customer formula** feed" means commercial feed that consists of a
35 mixture of commercial feeds or feed ingredients, each batch of which
36 is mixed to meet the request of the final purchaser that the mixture
37 contain a specific content of ingredients, nutrients, or nonnutritive
38 additives.

39 SECTION 27. IC 15-19-7-4, AS ADDED BY P.L.2-2008,
40 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2012]: Sec. 4. As used in this chapter, "distribute" means to:

42 (1) offer for sale, sell, exchange, **or barter a commercial feed**, or

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1 otherwise supply a commercial feed; **or**
 2 **(2) supply, furnish, or otherwise provide commercial feed to**
 3 **a contract feeder.**
 4 SECTION 28. IC 15-19-7-11, AS ADDED BY P.L.2-2008,
 5 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2012]: Sec. 11. As used in this chapter, "mineral feed" means
 7 a commercial feed, the primary purpose of which is to supply mineral
 8 elements ~~and or~~ inorganic nutrients.
 9 SECTION 29. IC 15-19-7-15, AS ADDED BY P.L.2-2008,
 10 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2012]: Sec. 15. As used in this chapter, **except as provided**
 12 **in section 18 of this chapter**, "pet" means a ~~domesticated animal~~
 13 ~~normally maintained in or near the household of its owner.~~ **dog or cat.**
 14 SECTION 30. IC 15-19-7-17, AS ADDED BY P.L.2-2008,
 15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2012]: Sec. 17. As used in this chapter, "product name" means
 17 the name of the commercial feed that:
 18 **(1) identifies it as to kind, class, or specific use; and**
 19 **(2) distinguishes it from all other products bearing the same**
 20 **brand name.**
 21 SECTION 31. IC 15-19-7-18, AS ADDED BY P.L.2-2008,
 22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2012]: Sec. 18. As used in this chapter, "specialty pet" means
 24 a domesticated animal normally maintained in a cage or tank, including
 25 a gerbil, hamster, bird, fish, **snake**, and turtle.
 26 SECTION 32. IC 15-19-7-22, AS ADDED BY P.L.2-2008,
 27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2012]: Sec. 22. The state chemist may cooperate with and
 29 enter into agreements with governmental agencies of this state, other
 30 states, agencies of the federal government, and private associations in
 31 order to carry out **the purpose and provisions of** this chapter.
 32 SECTION 33. IC 15-19-7-24, AS ADDED BY P.L.2-2008,
 33 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2012]: Sec. 24. (a) A person who manufactures a commercial
 35 feed or whose name appears on the label of a commercial feed may not
 36 distribute the commercial feed in Indiana without a commercial feed
 37 license issued by the state chemist on a form provided by the state
 38 chemist.
 39 (b) An out-of-state distributor may not cause a commercial feed to
 40 be distributed in Indiana without a commercial feed license issued by
 41 the state chemist on a form provided by the state chemist.
 42 (c) A commercial feed license is issued for a calendar year and

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1 expires December 31 of the year for which the license was issued.
2 Commercial feed license fees are as follows:

3 (1) The filing fee for a new or renewal license is fifty dollars
4 (\$50).

5 **(2) A late filing fee of fifty dollars (\$50) shall be added to the**
6 **license fee if the applicant has distributed feed before filing**
7 **the license application.**

8 ~~(2)~~ **(3)** A late filing fee of fifty dollars (\$50) shall be added to the
9 filing fee for renewing a commercial feed license if the
10 application for renewal is received after January 16.

11 (d) The form and content of commercial feed license applications
12 shall be established by rules adopted by the state chemist under
13 IC 4-22-2, in accordance with section 34 of this chapter.

14 SECTION 34. IC 15-19-7-25, AS ADDED BY P.L.2-2008,
15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2012]: Sec. 25. **(a)** The state chemist may refuse an
17 application for a commercial feed license that does not comply with
18 this chapter and may ~~cancel~~ **to issue a license to any manufacturer**
19 **or distributor who is not in compliance with this chapter.**

20 **(b) The state chemist may revoke or suspend** a commercial feed
21 license that is not in compliance with this chapter. ~~However, a~~
22 ~~commercial feed~~

23 **(c) The state chemist may place conditions that limit production**
24 **or distribution of a particular commercial feed on any person who**
25 **is not in compliance with this chapter.**

26 **(d)** A license may not be **conditionalized, suspended,** refused, or
27 ~~cancelled~~ **revoked** unless the applicant or licensee has been given an
28 opportunity to be heard before the state chemist. ~~and to amend the~~
29 ~~applicant's or licensee's application in order to comply with this~~
30 ~~chapter.~~

31 SECTION 35. IC 15-19-7-26, AS ADDED BY P.L.120-2008,
32 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2012]: Sec. 26. A commercial feed, except a ~~custom mixed~~
34 **customer formula** feed, must be accompanied by a label bearing the
35 following information:

- 36 (1) The ~~net weight.~~ **quality statement.**
- 37 (2) The product name and the brand name, if any, under which the
38 commercial feed is distributed.
- 39 (3) The guaranteed analysis, **expressed on an "as-is" basis, and**
40 stated in the terms that the state chemist, by rule, determines are
41 required to advise the user of the composition of the feed or to
42 support claims made in the labeling. In all cases the substances or

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1 elements must be determinable by laboratory methods such as the
2 methods published by AOAC International.

3 (4) The common or usual name of each ingredient used in the
4 manufacture of the commercial feed. However, the state chemist,
5 by rule, may:

6 (A) permit the use of a collective term for a group of
7 ingredients that perform a similar function; or

8 (B) exempt a commercial feed or group of commercial feeds
9 from the requirement for an ingredient statement if the state
10 chemist finds that such a statement is not required in the
11 interest of consumers.

12 (5) The name and principal mailing address of the manufacturer
13 or the person responsible for distributing the commercial feed.

14 (6) Adequate directions for use for:

15 (A) commercial feeds containing drugs; and

16 (B) other feeds that the state chemist requires by rule as
17 necessary for their safe and effective use.

18 (7) Precautionary statements that the state chemist by rule
19 determines are necessary for the safe and effective use of the
20 commercial feed.

21 SECTION 36. IC 15-19-7-27, AS ADDED BY P.L.120-2008,
22 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2012]: Sec. 27. ~~Custom mixed~~ **Customer formula** feed must
24 be accompanied by a label, invoice, delivery slip, or other shipping
25 document bearing the following information:

26 (1) Name and address of the manufacturer.

27 (2) Name and address of the purchaser.

28 (3) Date of delivery.

29 (4) The product name and brand name, if any, and the ~~net weight~~
30 **quality statement** of each commercial feed used in the mixture,
31 and the common or usual name and net weight of each other
32 ingredient used, and the specific content, stated in terms as
33 required in section 26 of this chapter, of any nutrients and
34 nonnutritive additives added at the request of the purchaser.

35 (5) Adequate directions for use for:

36 (A) ~~custom mixed customer formula~~ feeds containing drugs;
37 and

38 (B) other feeds that the state chemist requires by rule as
39 necessary for their safe and effective use.

40 (6) Precautionary statements that the state chemist by rule
41 determines are necessary for the safe and effective use of the
42 ~~custom mixed customer formula~~ feed.

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- (7) **If a drug containing product is used:**
 - (A) **a claim statement that includes the purpose of the medication; and**
 - (B) **the established name of each active drug ingredient and the amount of each drug used in the final mixture, expressed according to the requirements under subdivision (4).**

SECTION 37. IC 15-19-7-28, AS ADDED BY P.L.2-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 28. A commercial feed is considered misbranded if any of the following conditions exist:

- (1) Its labeling is false or misleading in any particular.
- (2) It is distributed under the name of another commercial feed.
- (3) It is not labeled as required by section 26 or 27 of this chapter.
- (4) It **appears purports** to be or is represented as a commercial feed, or it **appears purports** to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition, if any, prescribed by rule by the state chemist.
- (5) Any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling with sufficient conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in sufficient terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

SECTION 38. IC 15-19-7-29, AS ADDED BY P.L.2-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 29. A commercial feed is considered adulterated if it meets any of the following conditions:

- (1) It **bears or** contains a poisonous or deleterious substance that may render it injurious to health. However, if the substance is not an added substance, the commercial feed is not considered to be adulterated under this subdivision if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health.
- (2) It contains an added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of Section 406 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346) other than one that is:
 - (A) a pesticide chemical in or on a raw agricultural commodity; or

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- 1 (B) a food additive.
- 2 (3) It is, or it contains, a food additive that is unsafe within the
- 3 meaning of Section 409 of the federal Food, Drug, and Cosmetic
- 4 Act (21 U.S.C. 348).
- 5 (4) It is a raw agricultural commodity and it contains a pesticide
- 6 chemical that is unsafe within the meaning of Section 408(a) of
- 7 the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(a)).
- 8 However, if a pesticide chemical has been used in or on a raw
- 9 agricultural commodity in conformity with an exemption granted
- 10 or a tolerance prescribed under Section 408 of the federal Food,
- 11 Drug, and Cosmetic Act (21 U.S.C. 346a) and the raw agricultural
- 12 commodity has been subjected to processing, such as canning,
- 13 cooking, freezing, dehydrating, or milling, the residue of the
- 14 pesticide chemical remaining in or on the processed feed is not
- 15 considered unsafe if:
- 16 (A) the residue in or on the raw agricultural commodity has
- 17 been removed to the extent possible in good manufacturing
- 18 practice;
- 19 (B) the concentration of the residue in the processed feed is
- 20 not greater than the tolerance prescribed for the raw
- 21 agricultural commodity; and
- 22 (C) the feeding of the processed feed will not result, or is not
- 23 likely to result, in a pesticide residue in the edible product of
- 24 the animal that is unsafe within the meaning of Section 408(a)
- 25 of the federal Food, Drug, and Cosmetic Act (21 U.S.C.
- 26 346a(a)).
- 27 (5) It is, or it contains, a color additive that is unsafe within the
- 28 meaning of Section ~~706~~ **721** of the federal Food, Drug, and
- 29 Cosmetic Act (21 U.S.C. 379e).
- 30 (6) It is, or it contains, an animal drug that is unsafe within the
- 31 meaning of Section 512 of the federal Food, Drug, and Cosmetic
- 32 Act (21 U.S.C. 360b).
- 33 (7) If any valuable constituent has been in whole or in part
- 34 omitted or ~~removed~~ **abstracted** from the commercial feed or any
- 35 less valuable substance has been substituted for a valuable
- 36 constituent.
- 37 (8) Its composition or quality falls below or differs from that
- 38 which it is purported or is represented to possess by its labeling.
- 39 (9) It contains a drug and the methods used in or the facilities or
- 40 controls used for its manufacture, processing, or packaging do not
- 41 conform to current good manufacturing practice rules adopted by
- 42 the state chemist to ensure that the drug:

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1 (A) meets the requirement of this chapter as to safety; and
 2 (B) has the identity and strength, and meets the quality and
 3 purity characteristics that it is represented to possess.
 4 In adopting these rules, the state chemist shall adopt the current
 5 good manufacturing practice regulations for **Type A** medicated
 6 ~~feed premixes articles~~ and for **Type B and Type C** medicated
 7 feeds established under authority of the federal Food, Drug, and
 8 Cosmetic Act (21 U.S.C. 301 et seq.), unless the state chemist
 9 determines that they are not appropriate to the conditions that
 10 exist in Indiana.
 11 (10) It contains viable weed seeds in amounts exceeding the limits
 12 the state chemist establishes by rule.
 13 **(11) It consists in whole or in part of any filthy, putrid, or**
 14 **decomposed substance, or it is otherwise unfit for feed.**
 15 **(12) It has been prepared, packed, or held under unsanitary**
 16 **conditions where it may become contaminated with filth, or**
 17 **where it may have become injurious to health.**
 18 **(13) It is, in whole or in part, the product of a diseased animal**
 19 **or of an animal that has died by means other than slaughter.**
 20 **(14) It is unsafe within the meaning of Section 402(a)(1) or**
 21 **(a)(2) of the federal Food, Drug, and Cosmetic Act (21 U.S.C.**
 22 **342(a)(1) and 21 U.S.C. 342(a)(2)).**
 23 **(15) Its container is composed, in whole or in part, of any**
 24 **poisonous or deleterious substance that may render the**
 25 **contents injurious to health.**
 26 **(16) It has been intentionally subjected to radiation, unless the**
 27 **use of radiation was in conformity with a regulation or**
 28 **exemption in effect under Section 409 of the Federal Food,**
 29 **Drug, and Cosmetic Act (21 U.S.C. 348).**
 30 SECTION 39. IC 15-19-7-30, AS ADDED BY P.L.2-2008,
 31 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2012]: Sec. 30. (a) A distributor shall pay to the state chemist
 33 an inspection fee at the rate of forty cents (\$0.40) per ton on all
 34 commercial feeds ~~shipped~~ **distributed** into or within Indiana, subject
 35 to the following:
 36 (1) No fee shall be paid on a commercial feed if the payment has
 37 been made by a previous distributor.
 38 (2) No fee shall be paid on a ~~custom mixed~~ **customer formula**
 39 feed if the inspection fee has been paid on all of the commercial
 40 feeds that are ingredients of the ~~custom mixed~~ **customer formula**
 41 feed.
 42 (3) On commercial feeds that contain ingredients on which the

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1 inspection fee has already been paid, credit shall be given for that
2 payment.

3 (4) The minimum inspection fee is five dollars (\$5) per quarter if
4 a quarterly feed tonnage report is required under section 31 of this
5 chapter.

6 (b) In the case of a pet food or a specialty pet food that is distributed
7 in Indiana in packages of ten (10) pounds or less, an annual inspection
8 fee of fifty dollars (\$50) shall be paid instead of the tonnage inspection
9 fee specified in subsection (a).

10 SECTION 40. IC 15-19-7-31, AS ADDED BY P.L.2-2008,
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2012]: Sec. 31. (a) Except as provided in subsection (b), a
13 distributor who is liable for the payment of the tonnage inspection fee
14 under section 30 of this chapter shall file quarterly tonnage reports
15 setting forth the number of net tons of commercial feeds distributed in
16 Indiana during the preceding calendar quarter. The distributor shall file
17 the reports not later than January 31, April 30, July 31, and October 31
18 of each year. Upon filing a report, the distributor shall pay the
19 inspection fee at the rate stated in section 30 of this chapter. Inspection
20 fees that are due and owing and have not been remitted to the state
21 chemist within fifteen (15) days after the due date shall be increased by
22 a penalty fee of ten percent (10%) of the amount due or fifty dollars
23 (\$50), whichever is greater. The assessment of this penalty fee does not
24 prevent the state chemist from taking other actions under this chapter.

25 (b) A resident of Indiana who only manufactures and distributes
26 ~~custom mixed commercial~~ **customer formula** feeds and has met the
27 requirements of section 30 of this chapter is exempt from filing
28 quarterly feed tonnage reports.

29 (c) A distributor who is subject to the inspection fees for small
30 packaged pet and specialty pet foods distributed in containers of ten
31 (10) pounds or less under section 30 of this chapter shall do the
32 following:

33 (1) Before beginning distribution, file with the state chemist a
34 listing of small packaged pet and specialty pet foods to be
35 distributed in Indiana in containers of ten (10) pounds or less, on
36 forms provided by the state chemist. The listing under this
37 subdivision shall be renewed annually before January 1 of each
38 year and is the basis for the payment of the annual inspection fee
39 of fifty dollars (\$50) per product. New products added during the
40 year must be submitted to the state chemist as a supplement to the
41 annual listing before distribution.

42 (2) If the annual renewal of the listing is not received before

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1 January 16 or if an unlisted product is distributed, pay a late filing
 2 fee of ten dollars (\$10) per product in addition to the normal
 3 charge for the listing. The late filing fee under this subdivision is
 4 in addition to any other penalty under this chapter.

5 SECTION 41. IC 15-19-7-34, AS ADDED BY P.L.2-2008,
 6 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2012]: Sec. 34. (a) Subject to subsection (b), and in the
 8 manner provided by IC 4-22-2, the state chemist may adopt:

- 9 (1) rules for commercial feeds, ~~and~~ pet foods, **and specialty pet**
 10 **foods** as specifically authorized in this chapter; and
 11 (2) other reasonable rules necessary for the efficient enforcement
 12 of this chapter.

13 (b) In the interest of uniformity, the state chemist shall adopt the
 14 following by rule unless the state chemist determines that the following
 15 are inconsistent with this chapter or are not appropriate to conditions
 16 that exist in Indiana:

- 17 (1) The official definitions of feed ingredients and official feed
 18 terms adopted by the Association of American Feed Control
 19 Officials and published in the official publication of that
 20 organization.
 21 (2) Any regulation promulgated under the federal Food, Drug, and
 22 Cosmetic Act (21 U.S.C. 301 et seq.) if the state chemist would
 23 have the authority under this chapter to adopt such a rule.

24 (c) The state chemist may adopt rules under IC 4-22-2 to exclude
 25 from the definition of "commercial feed" commodities, such as hay,
 26 straw, stover, silage, cobs, husks, hulls, and individual chemical
 27 compounds or substances when the commodities, compounds, or
 28 substances are not intermixed or mixed with other materials.

29 (d) The state chemist may adopt rules under IC 4-22-2 to require
 30 copies of labels and labeling.

31 SECTION 42. IC 15-19-7-35, AS ADDED BY P.L.2-2008,
 32 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 35. (a) Upon presenting appropriate credentials
 34 and a written notice to the owner, operator, or agent in charge, officers
 35 or employees designated by the state chemist may:

- 36 (1) during normal business hours, enter:
 37 (A) a factory, warehouse, or establishment in Indiana in which
 38 commercial feeds are manufactured, processed, packed, or
 39 held for distribution; and
 40 (B) a vehicle being used to transport or hold commercial
 41 feeds; and
 42 (2) at reasonable times, within reasonable limits, and in a

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1 reasonable manner, inspect such a factory, warehouse,
2 establishment, or vehicle and all pertinent equipment, finished
3 and unfinished materials, containers, and labeling;

4 to enforce this chapter and to determine compliance with this chapter,
5 including whether or not any operations are subject to this chapter. In
6 determining compliance with good manufacturing practice rules
7 adopted under section 29(9) of this chapter, the inspection may include
8 the verification of only the records and production and control
9 procedures necessary to determine compliance with those rules.

10 (b) A separate notice shall be given for each inspection, but a notice
11 is not required for each entry made during the period covered by the
12 inspection. Each inspection must begin and be completed with
13 reasonable promptness. The person in charge of the facility or vehicle
14 shall be notified upon completion of the inspection.

15 (c) An officer or employee who inspects a factory, warehouse, or
16 other establishment and obtains a sample in the course of the
17 inspection shall, upon completion of the inspection and before leaving
18 the premises, give to the owner, operator, or agent in charge a receipt
19 describing the samples obtained.

20 (d) The state chemist shall forward the results of analyses of official
21 samples to the person named on the label and to the person in whose
22 possession the sample was taken. If the inspection and analysis of an
23 official sample indicates a commercial feed has been adulterated or
24 misbranded, and upon request within thirty (30) days following receipt
25 of the analysis, the state chemist shall furnish to the ~~registrant licensee~~
26 **or labeler** a portion of the sample concerned.

27 (e) The state chemist, in determining for administrative purposes
28 whether a commercial feed is deficient in any component, shall be
29 guided by the official sample obtained and analyzed as provided for in
30 subsection ~~(e)~~ **(d)** and section 36 of this chapter.

31 SECTION 43. IC 15-19-7-39, AS ADDED BY P.L.2-2008,
32 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2012]: Sec. 39. A lot of commercial feed that is not in
34 compliance with this chapter or a rule adopted under this chapter is
35 subject to seizure on complaint of the state chemist to a court with
36 jurisdiction in the ~~county area~~ in which the commercial feed is located.
37 If the court finds the commercial feed is in violation of this chapter and
38 orders the condemnation of the commercial feed, the commercial feed
39 shall be disposed of in any manner consistent with the quality of the
40 commercial feed and the laws of Indiana. However, the disposition of
41 the commercial feed may not be ordered by the court without first
42 giving the claimant an opportunity to apply to the court for release of

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1 the commercial feed or for permission to process or relabel the
2 commercial feed to bring it into compliance with this chapter.

3 SECTION 44. IC 15-19-7-40, AS AMENDED BY P.L.8-2011,
4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2012]: Sec. 40. A person commits a ~~Class C~~ **Class A**
6 infraction if the person knowingly engages in any of the following:

- 7 (1) The manufacture or distribution of a commercial feed that is
- 8 adulterated or misbranded.
- 9 (2) The adulteration or misbranding of a commercial feed.
- 10 (3) The distribution of agricultural commodities, such as whole
- 11 seed, hay, straw, stover, silage, cobs, husks, and hulls, that are
- 12 adulterated within the meaning of section 29(1) of this chapter.
- 13 (4) The removal or disposal of a commercial feed in violation of
- 14 an order under section 38 or 39 of this chapter.
- 15 (5) The failure to obtain a commercial feed license under section
- 16 24 of this chapter.
- 17 (6) The failure to pay inspection fees or file reports as required by
- 18 section 30, 31, or 34.5 of this chapter.

19 SECTION 45. IC 35-51-15-1, AS ADDED BY P.L.70-2011,
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 15:

- 22 IC 15-11-8-8 (Concerning Indiana department of agriculture).
- 23 IC 15-12-1-38 (Concerning agricultural cooperatives).
- 24 IC 15-15-1-37 (Concerning horticulture products).
- 25 IC 15-15-9-8 (Concerning horticulture products).
- 26 IC 15-16-1-14 (Concerning horticulture control).
- 27 IC 15-16-2-49.5 (Concerning horticulture control).
- 28 IC 15-16-4-77 (Concerning horticulture control).
- 29 IC 15-16-4-78 (Concerning horticulture control).
- 30 IC 15-16-5-70 (Concerning horticulture control).
- 31 IC 15-17-5-24 (Concerning animal health and animal products).
- 32 IC 15-17-5-25 (Concerning animal health and animal products).
- 33 IC 15-17-5-30 (Concerning animal health and animal products).
- 34 IC 15-17-5-31 (Concerning animal health and animal products).
- 35 IC 15-17-5.5-4 (Concerning animal health and animal products).
- 36 IC 15-17-14-11 (Concerning animal health and animal products).
- 37 IC 15-17-16-9 (Concerning animal health and animal products).
- 38 IC 15-17-18-1 (Concerning animal health and animal products).
- 39 IC 15-17-18-2 (Concerning animal health and animal products).
- 40 IC 15-17-18-3 (Concerning animal health and animal products).
- 41 IC 15-17-18-4 (Concerning animal health and animal products).
- 42 IC 15-17-18-5 (Concerning animal health and animal products).

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- 1 IC 15-17-18-6 (Concerning animal health and animal products).
- 2 IC 15-17-18-7 (Concerning animal health and animal products).
- 3 IC 15-17-18-8 (Concerning animal health and animal products).
- 4 IC 15-17-18-9 (Concerning animal health and animal products).
- 5 IC 15-17-18-11 (Concerning animal health and animal products).
- 6 IC 15-18-1-33 (Concerning dairy products).
- 7 IC 15-18-2-35 (Concerning dairy products).
- 8 IC 15-18-5-32 (Concerning dairy products).
- 9 IC 15-19-3-4 (Concerning livestock).
- 10 IC 15-19-3-5 (Concerning livestock).
- 11 IC 15-19-5-8 (Concerning livestock).
- 12 IC 15-19-6-19 (Concerning livestock).
- 13 IC 15-19-6-20 (Concerning livestock).
- 14 IC 15-19-6-21 (Concerning livestock).
- 15 IC 15-19-6-22 (Concerning livestock).
- 16 **IC 15-19-7-40 (Concerning livestock).**
- 17 IC 15-19-7-46 (Concerning livestock).
- 18 IC 15-20-1-4 (Concerning animal control).
- 19 IC 15-20-1-5 (Concerning animal control).
- 20 IC 15-21-2-3 (Concerning commercial dog breeder regulation).
- 21 IC 15-21-3-1 (Concerning commercial dog breeder regulation).
- 22 IC 15-21-3-2 (Concerning commercial dog breeder regulation).

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COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Natural Resources, to which was referred Senate Bill No. 398, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- Page 1, line 12, after "certificate," insert "**registration**,".
- Page 6, line 22, strike "pesticides."
- Page 6, line 23, after "only." insert "**pesticide products**,".
- Page 11, line 24, after "any pesticide" insert "**product**,".
- Page 11, line 24, before "containers" insert "**product**,".
- Page 13, line 27, strike "pesticides." and insert "**pesticide products**,".
- Page 15, delete lines 30 through 38.
- Page 24, line 23, strike "Class C" and insert "**Class A**,".
- Page 24, line 23, reset in roman "infraction".
- Page 24, line 24, delete "misdemeanor".
- Page 24, delete lines 37 through 42.
- Page 25, delete line 1.
- Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 398 as introduced.)

MISHLER, Chairperson

Committee Vote: Yeas 8, Nays 1.

 SENATE MOTION

Madam President: I move that Senate Bill 398 be amended to read as follows:

Page 14, between lines 9 and 10, begin a new paragraph and insert:
 "SECTION 20. IC 15-17-2-58, AS ADDED BY P.L.2-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 58. "Milk producer" means a person that does the following:

- (1) Operates a dairy farm.
- (2) Provides, sells, or offers raw milk for sale to a milk plant, receiving station, **consumer**, or transfer station.

SECTION 21. IC 15-18-1-21, AS ADDED BY P.L.2-2008,

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SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 21. (a) **Except as provided in section 21.5 of this chapter**, a person may not offer, display for sale, sell, deliver, or have possession of with intent to sell or deliver milk or milk products for human consumption unless every particle of the final mixture of the milk or milk products used in processing or manufacture has been thoroughly pasteurized by equipment approved by the board.

(b) The provisions of this chapter governing pasteurization do not apply to a person selling or offering for sale cheddar cheese that has been made from unpasteurized milk if:

- (1) the cheese was made from unpasteurized milk and has been cured or ripened for at least sixty (60) days at a controlled temperature of at least thirty-five (35) degrees Fahrenheit; or
- (2) the cheese is manufactured solely to be made into processed cheese that is pasteurized during the blending or manufacturing process.

Varieties of cheese other than that of the cheddar type made from unpasteurized milk must be ripened for the time and under the conditions prescribed by rule of the board. Cheese made from unpasteurized milk and offered or displayed for sale to the consumer must be labeled by the manufacturer or distributor with the manufacturer's or distributor's name and address or an equivalent identifying number or symbol and with the date of manufacture or a statement to the effect that the cheese has been cured or ripened for at least sixty (60) days.

(c) A pasteurizer of any milk or milk products must be equipped with accurate indicating thermometers and accurate recording thermometers and, for vat pasteurization equipment, an accurate airspace thermometer of a type approved by the board. Each recording thermometer chart must be dated and numbered and must show the amount in gallons, the kind of product pasteurized, the accurate readings of the indicating thermometers and airspace thermometers, the time the reading was made, and the operator's initials. Each chart may not be used for more than one (1) day of operations. The records of the pasteurization of each batch pasteurized must be retained for at least ninety (90) days.

SECTION 22. IC 15-18-1-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 21.5. (a) Notwithstanding any other law, a milk producer who holds a permit under this chapter may register with the department for the purposes described in subsection (d).**



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(b) Notwithstanding any other law, a milk producer who does not have a permit under this chapter may register with the department for the purposes described in subsection (d) if the milk producer milks fewer than twenty (20) cows.

(c) The department may not specify additional requirements for registration under this section.

(d) Upon request of a milk producer described in subsection (a) or (b), the department shall register the producer as a person who may sell raw milk as described in this subsection. A milk producer (as defined under IC 15-17-2-58) may sell raw milk and raw milk products to a consumer for human consumption on the milk producer's dairy farm if all the following apply:

- (1) The milk producer is registered under this subsection.
- (2) For each sale, either the milk producer or the consumer provides a sanitary container for the milk that has been prepared in a sanitary manner and the container is filled in a sanitary manner.
- (3) At the place where the milk is sold, the milk producer displays a sign that is easy for a consumer to read and that states, "Raw Milk products are sold here. Raw Milk products are not pasteurized."
- (4) The raw milk or raw milk product is prominently labeled, in at least a one-half (1/2) inch font, "This product contains Raw Milk. Consume at your own risk."

Renumber all SECTIONS consecutively.

(Reference is to SB 398 as printed January 25, 2012.)

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